

**Board for Geologists and Geophysicists**

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**Minutes of the Board for Geologists and Geophysicists
August 3, 2007 Board Meeting
Sacramento**

1. Roll Call to Establish a Quorum

The meeting was called to order at 9:11 a.m. and a quorum established. Present: William Black, President; Richard Blake, Vice-President; James Ashby; Cecilia Yu. The following Board Members were not present at the time of roll call: Shayan Samii (absent); Shirley Husar (arrived at 9:20 a.m.).

2. Public Forum

State and Consumer Services Secretary Rosario Marin thanked the Board for their efforts. Secretary Marin introduced DCA Director Carrie Lopez and commended her commitment to public service and protection. Director Lopez thanked the Board for their efforts to strengthen public protection. Charles Nestle of CCGO announced the upcoming AEG 50th Anniversary event at which Executive Officer Rempel would be speaking.

3. Minutes

The Board discussed revisions to the draft minutes of the May 18, 2007 Board Meeting and requested that staff identify the names of the Board Members making or seconding motions in the minutes.

Board Action: A motion to approve the minutes as amended was moved (Yu) and seconded (Blake). Motion adopted: 5-0.

4. Annual Election

Board Action: A motion to nominate Board Member Black for Board President was moved (Husar) and seconded (Blake). Motion adopted: 5-0.

Board Action: A motion to nominate Board Member Blake for Board Vice President was moved (Ashby) and seconded (Yu). Motion adopted: 5-0.

5. Personnel Update (Agenda Item No. 7)

Jeff Sears, DCA Pay and Classification Manager, reported on the status of the Board's inquiries to the DCA personnel office made at the December 8, 2006 Board Meeting. The specific requests made to Mr. Sears were to raise the salary of the Board's exempt Executive Officer position and to institute a requirement for professional geologic or geophysical licensure for that position. Mr. Sears reported to the Board that a written request had been made by him to the State and Consumer Services Agency (SCSA) the prior month (July 2007) for the EO salary to be raised to the same level as that of the Board for Professional Engineers and Land Surveyors (BPELS). Board Member Ashby requested a copy of the formal written request be provided to the Board members for detailed

Protection of the public shall be the highest priority of the Board for Geologists and Geophysicists in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Business and Professions Code §7810.1)

review.

Board Action: The Board directed staff to prepare a letter of support to Secretary Marin and to schedule a meeting.

President Black inquired about the possibility of making licensure a requirement. Mr. Duke, DCA Legal Office, stated the Board could have a preference for instituting a requirement for professional geologic or geophysical licensure for the Executive Officers position.

Board Action: Board Member Husar motioned to amend the Board Member Guidelines that, as a matter of policy, the Board's Executive Officer shall be a licensed professional geologist or geophysicist. Board Member Ashby seconded the motion. Motion passed 5-0.

6. Adjourn meeting to convene public hearing to amend California Code of Regulations (CCR) Title 16, Section 3065. (Agenda Item No. 5)

- **Action:** The Board will consider adopting proposed regulations that have been appropriately noticed for timely public comment in accordance with Office of Administrative Law requirements.

The public hearing was convened at 10:05 a.m. Mr. Tom Spittler addressed the Board as a member of the public. He asked the Board to add "and California's environmental quality" to the first line of Section 3065 (Code of Professional Standards). Mr. Duke advised that any change to the language would require a 15-day comment period. There were no further comments.

Board Action: The motion to adopt the proposed regulations with the change requested by Mr. Spittler was moved (Husar) and seconded (Yu). Motion passed 5-0.

The public hearing was closed at 10:12 a.m.

7. Re-convene Board meeting (Agenda Item No. 6)

The Board Meeting was reconvened at 10:12 a.m.

8. Executive Officer Report

Mr. Rempel reported on the following:

- New Board staff (Examination Administrator and four Student Interns)
- Approval for the Board to attend the ASBOG® October 25-27, 2007 Annual Meeting in Denver
- Interim updated Strategic Plan
- FY 2006-2007 expenditures of approximately \$900K, ongoing collection of all appropriate licensing and application fees to continue level of revenue, and receipt of first installment of a \$110K settlement
- Summary statistics regarding monthly enforcement, licensing, testing, legislation, outreach, and other items of interest
- Internal tracking of delinquencies versus retired licensees
- Need to update the Records Retention Schedule for compliance

Board Action: The Board directed staff to publish the Interim Strategic Plan.

Board Action: The Board directed staff to develop a list of regulatory changes for Board consideration.

Board Action: A motion to direct staff to update the Records Retention Schedule was moved (Yu) and seconded (Blake). Motion adopted: 5-0.

Mr. Rempel reported on the following:

- Cooperative Department of Toxic Substances Control (DTSC) groundwater data retrieval project QA/QC with other public/private partners
- Statewide groundwater information housed separately; as a licensing entity the Board acts as quality control and can help overcome jurisdictional issues and facilitate information sharing

Board Action: A motion to approve the letter from President Black responding to DTSC Director Gorsen supporting the partnership was moved (Husar) and seconded (Ashby). Motion adopted: 5-0.

Mr. Dunfield reported on the following:

- Board enforcement focus has been on reviewing the results and legacy of the Board's previous examination and application process.
- In accordance with the previous direction from the Board, non-compliance warning letters have been sent to references that have provided inaccurate or misleading information to the Board.

Board Action: The Board directed staff to utilize the Board's citation and fine authority to take enforcement action against licensees who misrepresent information provided to the Board more than once.

Mr. Dunfield reported on the following:

- Current case load: 78 open cases
- The Wall Street Journal contacted the Board regarding the impact of unlicensed practice of geology and geophysicists on the groundwater resources of California
- Update on efforts to resolve consumer protection issues caused by differing performance standards for Professional Geologists and Professional Engineers: Mr. Duke has met with Executive Officer Rempel and Executive Officer Christensen (BPELS).

9. Committee Reports

Examination Committee (EC): EC Vice-Chair Spittler thanked the Board for the change in working conditions of the EC to allow improvement of the examinations offered by the Board. Mr. Spittler reported that the EC has identified the specific items that need to be tested for and requested assistance in writing questions as approximately 600+ questions are needed in the question pool.

Enforcement Oversight Committee (EOC): EOC Chair Magorien reported that the committee reviewed closed cases and found that there appears to be a substantial difference in the standards of care, and therefore protection, offered by geologists and civil engineers, in addition, BPELS does not appear to have effectively maintained a standard of care protective of consumers of geologic and geophysical services unilaterally.

Board Action: A motion to direct a two-person, non-Board member sub-committee of the EOC to: (1) review open complaint cases against professional engineers and professional geologists for similar type of work; (2) determine adherence or compliance to protective standards of care applicable to both licensed occupations; and (3) determine if there are differing standards of care of professional engineers and professional geologists, was moved (Blake) and seconded (Husar). Motion adopted: 5-0.

Technical Advisory Committee (TAC): TAC Chair Mello reported that the committee had met on July 13, 2007 in Southern California, TAC is looking at the laws and regulations specific to the practice of geology in California and continuing to work on continuing competency requirements for presentation at the November 16, 2007 Board Meeting.

Board Action: A motion to direct the TAC to complete “occupational analysis” of areas unique to practice in California (as directed at the May 18, 2007 meeting) for presentation to the Board by June 30, 2008 and cease working on continuing competency issues for the time being was moved (Blake) and seconded (Husar). Motion adopted: 5-0.

Board Action: A motion to direct the TAC to evaluate current practice in the Engineering Geology (CEG) and Hydrogeology (CHG) specialties for presentation of such “occupational analyses” to the Board by June 30, 2008 was moved (Yu) and seconded (Blake). Motion adopted: 5-0.

10. Closed Session

Pursuant to Government Code §11126(a) and (b), §11126(c)(1), and §11126(e)(1), the Board went into Closed Session to discuss personnel matters, examination procedures and results, administrative adjudication and pending litigation.

11. Open Session to announce results of Closed Session

President Black announced the Board had discussed personnel matters, the bolstered seventy-five question California Supplemental Component (CSC) of the Professional Geologist examination, examination procedures and results, and a settlement agreement. Mr. Duke provided a summary of the case history and discussed correspondence from the individual with whom the Board had previously signed the settlement agreement.

12. Board Member Reports

Legislative Committee Report: President Black stated that he had asked Charles Nestle to provide an analysis of SB 963. Mr. Nestle reported that the bill would eliminate the Sunset Review process and replace with the Consumer Advocate Office and that it is unclear as to where the funding comes from. Mr. Duke reported that DCA is opposed to the bill as it places the entire sunset review process in the executive branch and sets up a parallel power structure within the department. Judith Wolen provided public comment that sunset review will be addressed in SB 797 and that the hearing on the sunset review process will occur this fall.

Board Action: Staff was directed to watch SB 963.

Mr. Duke summarized AB 1025 reporting that the bill shifts the burden of proof to the licensing board by creating the presumption of rehabilitation. Mr. Duke reported that the DCA Legal Office strongly urges the Board to take a “no” position on AB 1025.

Board Action: A motion directing staff to draft a letter opposing AB 1025 was moved (Yu) and seconded (Blake). Motion adopted: 5-0.

Sunset Committee Report: Mr. Rempel reported that Board Member Yu had been formally reappointed, that the Board had received a resignation letter from former Board Member Schmidt, and that the Board had not heard from the Senate Rules Committee regarding filling the vacant public member slot left by Mr. Schmidt.

Announcements: Board Member Husar to attend September 19, 2007 Board Member Orientation. President Black commended Mr. Rempel, Mr. Dunfield and the entire Board staff for

their progress moving forward to better protect the public.

13. Adjourn

The meeting was adjourned at 3:34 p.m.

William E. Black, Board President

Date Approved: December 21, 2007